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9 Attorneys for Defendant
10 GERBER PRODUCTS COMPANY

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

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16 IN RE: BABY FOOD PRODUCTS
LIABILITY LITIGATION

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19 This Document Relates to:
20 ALL ACTIONS
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Case No. 24-md-3101-JSC

MDL 3101

Hon. Jacqueline Scott Corley

**DECLARATION OF BRYAN A.
MERRYMAN IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE FILED UNDER SEAL**

DECLARATION OF BRYAN A. MERRYMAN

I, Bryan A. Merryman, declare:

1. I am a partner of the law firm of White & Case LLP, attorneys of record in this action for defendant Gerber Products Company (“Gerber”). I have personal knowledge of the matters set forth in this declaration, and if called upon as a witness I could and would testify competently thereto.

2. On July 25, 2025, Plaintiffs filed Plaintiffs’ Administrative Motion to Consider Whether Another Party’s Material Should be Filed Under Seal (ECF No. 552) regarding certain materials cited or quoted in Plaintiffs’ Omnibus Opposition to Defendants’ Motions to Dismiss Plaintiffs’ First Amended Master Long-Form Complaint (“Plaintiffs’ Omnibus Opposition”), filed on July 25, 2025 (ECF No. 553). Gerber filed the Declaration of Bryan A. Merryman in Support of Plaintiffs’ Administrative Motion (ECF No. 565) seeking the sealing of redacted portions of certain documents, including a redacted version of Exhibit 8 to Plaintiffs’ Omnibus Opposition (ECF No. 552) and Exhibit 8 to Plaintiffs’ July 25, 2025 Administrative Motion to Consider Whether Another Party’s Material Should be Filed Under Seal (ECF No. 552). *See* ECF No. 565-4.

3. On August 18, 2025, Plaintiffs filed an Administrative Motion to Consider Whether Another Party’s Material Should be Filed Under Seal (ECF No. 575) requesting the unredacted version (ECF No. 552-8) be replaced with the redacted version of Exhibit 8 (ECF No. 565-4). The Court granted Plaintiffs’ motion on September 16, 2025. *See* ECF No. 598.

4. Gerber requests the sealing of the redacted portions of ECF No. 565-4 on the following grounds: (i) an individual’s legitimate privacy interests warrant sealing; (ii) an individual will suffer injury if sealing is denied; and (iii) no less restrictive alternative to sealing is sufficient. Civ. L.R. 79-5(f). The compelling reason standard applies to this document.

5. This document is an employee’s performance review. The redacted portions of this document are necessary to protect the employee’s right to privacy and are also not relevant to the motion to dismiss, or the case. Courts routinely permit such information to be redacted from public filings. *See Bickley v. Schneider Nat’l, Inc.*, No. C 08-5806 JSW (JL), 2011 U.S. Dist. LEXIS 40674, at *6 (N.D. Cal. Apr. 8, 2011) (“Federal courts expressly recognize a constitutionally-based

1 right of privacy that can be raised in response to discovery.... An employee's personnel records and
2 employment information are protected by the constitutional right to privacy."'). A less restrictive
3 approach to sealing is not sufficient because the confidential information described above pervades
4 the redacted portion of the document.

5 I declare under penalty of perjury under the laws of the United States the foregoing is true
6 and correct. Executed on this 23rd day of September, 2025, at Houston, Texas.

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8 /s/Bryan A. Merryman
9 Bryan A. Merryman
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